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## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2012-0119; Notice 2]**

#### **Final Decision That Certain Canadian-Certified Vehicles Are Eligible for Importation**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final Decision that Certain Nonconforming Vehicles are Eligible for Importation.

**SUMMARY:** This document announces a final decision by the National Highway Traffic Safety Administration (NHTSA) that certain vehicles that do not comply with all applicable Federal motor vehicle safety standards (FMVSS), but that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards (CMVSS), are nevertheless eligible for importation into the United States. The vehicles in question either (1) are substantially similar to vehicles that were certified by their manufacturers as complying with the U.S. safety standards and are capable of being readily altered to conform to those standards, or (2) have safety features that comply with, or are capable of being altered to comply with, all U.S. safety standards.

**DATE:** This decision is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Coleman Sachs, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: (202) 366-3151.

#### **SUPPLEMENTARY INFORMATION:**

##### **BACKGROUND**

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided, either pursuant to a petition from the manufacturer or registered importer or on its own initiative, (1) that the nonconforming motor vehicle is substantially similar to a motor vehicle of the same model year that was originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with all applicable FMVSS, and (2) that the nonconforming motor vehicle is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if NHTSA decides that its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

#### TENTATIVE DECISION

On September 18, 2012, NHTSA published a notice in the Federal Register announcing that it had made a tentative decision that certain motor vehicles that are not certified by their original manufacturer as complying with all applicable FMVSS, but that are certified as complying with all applicable CMVSS are eligible for importation into the United States (77 FR 57641). The notice identified these vehicles as:

(a) All passenger cars manufactured on or after September 1, 2012 and before September 1, 2017 that, as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225; and

(b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2012 and before September 1, 2017,

that, as originally manufactured, comply with FMVSS Nos. 201, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138, 222, and 225.

The notice stated that the agency also tentatively decided to revise its prior import eligibility decisions to eliminate references to the following standards that have been harmonized to their Canadian counterparts for the vehicles identified below:

- FMVSS No. 110 for all passenger cars and all multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2009;
- FMVSS No. 118 for all passenger cars and all multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011;
- FMVSS No. 126 for all passenger cars and all multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011; and
- FMVSS No. 401 for all passenger cars manufactured on or after September 1, 2010.

The reader is referred to the September 18 notice for a full discussion of the factors leading to the tentative decision. The notice of tentative decision included tables that summarize the current state of harmonization between the CMVSS and the FMVSS. For the convenience of the reader, those tables are set out below. Table 1 is a list of all FMVSS that are harmonized to the CMVSS, or for which the differences are such that compliance with the US standard can be readily achieved. Table 2 is a list of all FMVSS which are not harmonized. Table 3 is a list of FMVSS that have been adopted and are not yet effective, but will be in the future. Table 2 has been revised from the version provided in the notice of tentative decision to show that FMVSS

225 *Child Restraint Anchorage Systems* has two Canadian equivalents, CMVSS 210.1 *Tether Anchorage* and CMVSS 210.2 *Lower Anchorage*.

Table 1  
Harmonized Standards

<b>FMVSS</b>	<b>Canadian Equivalent</b>	<b>Date Harmonized Since Last Determination</b>
102 - Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect	CMVSS 102 – Transmission Control Functions	
103 – Windshield Defrosting and Defogging Systems	CMVSS 103 – Windshield Defrost and Defog	
104 – Windshield Wiping and Washing Systems	CMVSS 104 – Windshield Wiping and Wash	
105 – Hydraulic and Electric Brake Systems	CMVSS 105 – Hydraulic and Electric Brakes; TSD 105	
106 – Brake Hoses	CMVSS 106 – Brake Hoses; TSD 106	
108 – Lamps, Reflective Devices and Associated Equipment	CMVSS 108 – Lighting Systems and Retroreflective Devices; TSD 108	
110 - Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kg (10,000 lb) or Less	CMVSS 110 – Tire Selection and Rims; TSD 110	September 1, 2009
111 – Rearview Mirrors	CMVSS 111 – Mirrors	
113 – Hood Latch Systems	CMVSS 113 – Hood Latch System	
114 – Theft Protection and Rollaway Prevention	CMVSS 114 – Locking and Immobilization; TSD 114	
116 – Motor Vehicle Brake Fluids	CMVSS 116 - Hydraulic Brake Fluids; TSD 116	
118 - Power-Operated Window, Partition, and Roof Panel Systems	CMVSS 118 – Power-operated Windows; TSD 118	September 1, 2011
120 - Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 pounds)	CMVSS 120 – Tire Selection and Rims for Vehicles Other Than Passenger Cars; TSD 120	
121 – Air Brake Systems	CMVSS 121 – Air Brakes for Trucks; TSD 121	
122 – Motorcycle Brake Systems	CMVSS 122 – Motorcycle Brake Systems; TSD 122	

<b>FMVSS</b>	<b>Canadian Equivalent</b>	<b>Date Harmonized Since Last Determination</b>
123 – Motorcycle Controls and Displays	CMVSS 123 – Motorcycle Control & Displays; TSD 123	
124 – Accelerator Control Systems	CMVSS 124 – Accelerator Control Systems; TSD 124	
126 – Electronic Stability Control Systems	CMVSS 126 – Electronic Stability Control; TSD 126	September 1, 2011
131 – School Bus Pedestrian Safety Devices	CMVSS 131 – School Bus Pedestrian Safety Devices; TSD 131	
135 – Light Vehicle Brake Systems	CMVSS 135 – Light Vehicle Brake Systems; TSD 135	
202 – Head Restraints; Applicable unless a vehicle is certified to §571.202a	CMVSS 202 – Head Restraints; TSD 202	
202a – Head Restraints	CMVSS 202 – Head Restraints; TSD 202	September 1, 2012
203 – Impact protection for the driver from the steering control system	CMVSS 203 – Driver Impact Protection	
204 – Steering control rearward displacement	CMVSS 204 – Steering Column Rearward Displacement	
205 – Glazing materials	CMVSS 205 – Glazing Materials	
205a – Glazing materials before September 1, 2006 and glazing materials used in vehicles manufactured before November 1, 2006	CMVSS 205 – Glazing Materials	
207 – Seating systems	CMVSS 207 – Anchorage of Seats	
210 – Seat belt assembly anchorages	CMVSS 210 – Seat Belt Assembly Anchorages	
212 – Windshield mounting	CMVSS 212 – Windshield Mounting	
216 – Roof crush resistance; Applicable unless a vehicle is certified to §571.216a	CMVSS 216 – Roof Intrusion Protection; TSD 216	
216a – Roof crush resistance; Upgraded standard	CMVSS 216 – Roof Intrusion Protection; TSD 216	
217 – Bus emergency exits and window retention and release	CMVSS 217 – Bus Window Retention and Emergency Exits	
219 – Windshield zone intrusion	CMVSS 219 – Windshield Zone Intrusion	
220 – School bus rollover protection	CMVSS 220 – Rollover Protection; TSD 220	
221 – School bus body joint strength	CMVSS 221 – School Bus Body Joint Strength	

<b>FMVSS</b>	<b>Canadian Equivalent</b>	<b>Date Harmonized Since Last Determination</b>
224 – Rear impact protection	CMVSS 223 – Rear Impact Guards	
301 – Fuel system integrity	CMVSS 301 – Fuel System Integrity; TSD 301	
302 – Flammability of interior materials	CMVSS 302 – Flammability; TSD 302	
303 – Fuel system integrity of compressed natural gas vehicles	CMVSS 301.2 – CNG Fuel System Integrity	
304 – Compressed natural gas fuel container integrity	CMVSS 301.2 – CNG Fuel System Integrity	
305 – Electric-powered vehicles: electrolyte spillage and electrical shock protection	CMVSS 305 – Electrolyte Spillage and Electrical Shock Protection; TSD 305	
401 – Internal trunk release	CMVSS 401 – Interior Trunk Release; TSD 401	September 1, 2010
500 – Low-speed vehicles	CMVSS 500 – Low-speed Vehicles; TSD 500	

Table 2  
Standards that Have Not Been Harmonized

US Standard	Canadian Standard	Passenger Cars	Multipurpose Passenger Vehicles, Trucks, and Buses With A GVWR of 4,536 Kg (10,000 Lb) or Less
FMVSS 101 – Controls and Displays	CMVSS 101 – Controls and Displays	X	X
FMVSS 138 – Tire Pressure Monitoring Systems		X	X
FMVSS 201 – Occupant Protection in Interior Impact	CMVSS 201 - Occupant Protection	X	X
206 – Door locks and door retention components	CMVSS 206 – Door Locks and Door Retention Components	X	X
FMVSS 208 – Occupant Crash Protection	CMVSS 208 – Occupant Restraint Frontal Impact	X	X
FMVSS 213 – Child Restraint Systems	CMVSS 213.4 – Built-in Child Restraint Systems	X	X
FMVSS 214 – Side Impact Protection	CMVSS 214 – Side Door Strength	X	X
FMVSS 222 - School Bus Passenger Seating And Crash Protection	CMVSS 222 - School Bus Passenger Seating and Crash Protection		School buses only
FMVSS 225 – Child restraint anchorage systems	CMVSS 210.1 Tether Anchorage and 210.2 Lower Anchorage	X	X

Table 3  
FMVSS That Have Been Adopted But are Not Yet Effective

FMVSS	Federal Register Notice	Description	Effective date
226 – Ejection Mitigation	76 FR 3212; 1/19/2011	New standard to mitigate occupant ejection from side windows in rollovers and side impacts.	9/1/17, except for altered and multistage vehicles 9/1/18.



In accordance with 49 U.S.C. 30141(b), the September 18 notice solicited public comments on the tentative decision. No comments were submitted in response to the notice.

Accordingly, we are adopting the tentative decision as a final decision.

#### FINAL DECISION

In consideration of the foregoing, NHTSA hereby decides that—

- (a) All passenger cars manufactured on or after September 1, 2009 and before September 1, 2010 that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401;
- (b) All passenger cars manufactured on or after September 1, 2010 and before September 1, 2011 that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, and 225;
- (c) All passenger cars manufactured on or after September 1, 2011 and before September 1, 2017 that, as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225;
- (d) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011 and before September 1, 2012, that, as originally manufactured, comply with FMVSS Nos. 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; and
- (e) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2012 and before September 1, 2017, that, as originally manufactured, comply with FMVSS Nos. 201, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138, 222, and 225;

that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards, are eligible for importation into the United States on the basis that either:

1. They are substantially similar to vehicles of the same make, model, and model year originally manufactured for importation into and sale in the United States, or originally manufactured in the United States for sale therein, and certified as complying with all applicable FMVSS, and are capable of being readily altered to conform to all applicable FMVSS, or
2. They have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

#### VEHICLE ELIGIBILITY NUMBER

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle Eligibility Number VSA-80 is currently assigned to Canadian-certified passenger cars and Vehicle Eligibility Number VSA-81 is currently assigned to Canadian-certified multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less. All passenger cars admissible under this decision will be assigned vehicle eligibility number VSA-80, and all multipurpose passenger vehicles, trucks, and buses admissible under this decision will be assigned vehicle eligibility number VSA-81.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.8; delegation of authority at 49 CFR 1.95.

Issued on: November 15, 2012

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Daniel C. Smith  
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for Vehicle Safety

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